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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,391

Applicant(s)

OSWALD ET AL.

Examiner

SUMAN DEBNATH

Art Unit

2435

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 and 56-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 and 56-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 04/09/2009; 06/18/2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-53 and 56-108 are pending in this application.
2. Claims 1, 9-10, 18, 29, 45-50, 56, 72-73, 77-78, 80, 86 and 100-105 are currently amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Claim Objections

4. Claims 1, 29, 56 and 86 are objected as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 29, 56 and 86 recite, "determining a sub-plurality of clients", and "that each or in the aggregate have an encrypted copy of the desired media". It's not clear whether the original discloser contains such limitations.

Appropriate corrections and/or clarification are required.

Claim Rejections - 35 USC § 103

5. Claims 1-2, 4-5, 7-22, 25-30, 34-48, 86-87 and 89-103 rejected under 35 U.S.C. 103(a) as being unpatentable over Buxton (Pub. No.: US 2003/0204856 A1) and further in view of Hurtado et al. (Pub. No.: US 2006/0095792 A1) (hereinafter, "Hurtado").

6. As to claim 1, Buxton discloses a method for distributing media comprising:

receiving at a first server a request from a first client for a particular media item, whereby the first client is interconnected to other clients ([0021] – [0023], see also, [0012], lines 13-16, [0022], [0043]);

at the first server, determining a sub-plurality of clients, of the other clients that each or in the aggregate have an encrypted copy of the desired media item ("during transfer of a movie, a local processing unit may go off-line. To prevent disruption of movie playback, if this particular local processing unit is providing data for a movie, another local user-subscriber's local processing unit must be able to provide the movie data content. The distribution monitor 212 within the distributed database server 104 serves to monitor the availability of local processing units and arbitrates which unit will stream the movie data.", e.g. see, [0023], *which describes that a sub-plurality of clients (i.e. multiple set top boxes) in the aggregate have copy of the encrypted media item*);

at the first server, transferring the encrypted copy of the desired media item from the sub-plurality of clients to the first client ([0033], lines 5-13, see also [0022], lines 7-11, [0023], [0043]);

at the first client, returning the media pass to the third server ("When a user-subscriber (i.e. client) has been determined as having authorization (i.e. media pass) for viewing a requested movie (i.e. desired media item) as determined by the transaction processing server (i.e. media pass server)" –e.g. see, [0033], lines 5-13);

at the third server, once receiving the media pass from the first client, providing a decryption key to the first client for decrypting and viewing the desired media item (Buxton teaches this concept because the user can manually or via automatic process can utilize the key code and enable the requesting user's local processing unit to decrypt encrypted data, e.g. see, [0033], lines 13-21), [0032]).

Buxton doesn't explicitly disclose at a second server, evaluating whether the first client satisfied business rules for viewing the desired media item; at the first server, signaling to the third server that the business rules have been satisfied, wherein the third server contains media passes and decryption keys; at the third sever, providing a media pass to the first client;

However, Hurtado discloses at a second server, evaluating whether the first client satisfied business rules for viewing the desired media item; at the first server, signaling to the third server that the business rules have been satisfied, wherein the third server contains media passes and decryption keys; at the third sever, providing a media pass to the first client{[0247] – [0257], "The End-User Device(s) 109 request from the content Hosting Facility 111, sending the corresponding License SC from the purchase Content 113." "Upon the receipt the Content 113 is de-encrypted by the End-User Device(s) 109 using the Symmetric Key").

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton as taught by Hurtado in order to make sure the delivery of the media content to a legitimate user.

7. As to claim 2, Buxton discloses wherein said media includes various file types ([0002]).
8. As to claim 4, Buxton discloses further comprising: pre-loading media items at clients so as to facilitate distribution of media items ([0031], see also [0019], [0033]).
9. As to claim 5, Buxton discloses wherein the receiving step includes: displaying a catalog of media items available; and receiving user input from the first client for selecting one of the media items available from the catalog ([0021], lines 1-7, [0022]).
10. As to claim 7, Buxton discloses wherein the catalog comprises an online catalog that may be displayed on a television device connected to a set-top box with broadband connectivity ([0012], lines 13-16, [0019]).
11. As to claim 8, Buxton discloses wherein the catalog is downloaded to a set-top box with broadband connectivity for display at a television device connected to the set-top box ([0019], [0012], lines 13-16).
12. As to claim 9, Buxton discloses wherein the clients are interconnected via a broadband network ([0016], lines 8-12).

13. As to claim 10, Buxton discloses wherein the clients are interconnected via a peer-to-peer network operating on the Internet ([0016]).

14. As to claim 11, Buxton discloses wherein the first client includes a local device capable of decrypting encrypted media items and displaying them on a television device ([0033], lines 16-21).

15. As to claim 12, Buxton discloses wherein the local device includes a set-top box having a hard disk for storing the requested media item that is transferred to the first client ([0037], [0012], lines 13-16, [0013], see also [0038]).

16. As to claim 13, Buxton discloses wherein the requested media item is stored on the hard disk only in encrypted form ([0019], [0033], [0031]).

17. As to claim 14, Buxton discloses wherein said transferring step includes transferring the encrypted copy to a storage device connected to a set-top box capable of decrypting encrypted media items and rendering them on a television device at the first client ([0033], [0038]).

18. As to claim 15, Buxton discloses wherein the first client includes a network that allows a set-top box at the first client to share broadband connectivity ([0043]).

19. As to claim 16, Buxton discloses further comprising: transferring an encrypted copy of the desired media item from a media server, if a copy of the requested media item is not available from other clients ([0024], lines 4-8).

20. As to claim 17, Buxton discloses further comprising: allowing the first client to use the requested media item for a limited period of time, after receipt of the payment authorization ([0032], lines 1-3).

21. As to claim 18, Buxton discloses further comprising: receiving at the first server a request from a second client for the particular media item; and transferring the encrypted copy of the desired media item from the first client to the second client ([0043], [0033], FIG. 1).

22. As to claim 19, Buxton discloses wherein the transferring step includes: scheduling transfer of the encrypted copy of the desired media item to occur at a particular time ([0031], lines 15-19).

23. As to claim 20, Buxton discloses wherein the second server includes a customer management subsystem for tracking and managing customers ([0032]).

24. As to claim 21, Buxton discloses wherein the first server is in communication with at least one repository of digital media, so that the first server may direct transfer of the requested media item from said at least one repository as needed ([0024]).

25. As to claim 22, Buxton discloses wherein said at least one repository comprises a plurality of servers, with each server storing a subset of the available digital media, such that a subset of the plurality of servers has at least one copy of each media item ([0024]).

26. As to claim 25, Buxton discloses wherein the transferring step includes: scheduling transfer of multiple media items to the first client from multiple other clients (Buxton teaches this concept because the distributed database movie server selectively pushed certain movies in a time period whereas lesser viewed movies genres may remain stored on the back-up media server, e.g. see, [0031]).

27. As to claim 26, Buxton discloses wherein the transferring step includes: scheduling transfer of portions of a media item to the first client from multiple other clients ([0031], [0043]).

28. As to claim 27, Buxton discloses a computer-readable medium having processor-executable instructions for performing the method of claim 1 (claim 51).

29. As to claim 28, Buxton discloses a downloadable set of processor-executable instructions for performing the method of claim 1 ([0019], [0027]).

30. As to claim 29, Buxton discloses a distributed media distribution system comprising:

a plurality of clients having peer-to-peer connectivity to one another (FIG. 1, [0010], lines 6-10, [0012], lines 13-16);

a first server for processing a request from a first client for a particular media item ([0021], [0022], lines 1-11, [0043]), for determining a sub-plurality of clients that each or in the aggregate have an encrypted copy of the desired media item ([0022], lines 7-11, [0043], [0014], [0033], see also [0023], "during transfer of a movie, a local processing unit may go off-line. To prevent disruption of movie playback, if this particular local processing unit is providing data for a movie, another local user-subscriber's local processing unit must be able to provide the movie data content. The distribution monitor 212 within the distributed database server 104 serves to monitor the availability of local processing units and arbitrates which unit will stream the movie data.", *which describes that a sub-plurality of clients (i.e. multiple set top boxes) in the aggregate have copy of the encrypted media item*), for arranging transfer of the encrypted copy of the desired media item from the sub-plurality of client to the first client ([0033], lines 5-13, see also [0023]);

a third server for granting a media pass to the first client allowing access to the desired media item and a decryption key ("When a user-subscriber (i.e. client) has

been determined as having authorization (i.e. media pass) for viewing a requested movie (i.e. desired media item) as determined by the transaction processing server (i.e. media pass server)" –e.g. see, [0033], lines 5-13), and for providing the decryption key to the first client based on the return of the media pass by the first client (Buxton teaches this concept because the user can manually or via automatic process can utilize the key code and enable the requesting user's local processing unit to decrypt encrypted data, e.g. see, [0033], lines 13-21).

a client rendering device for decrypting the desired media item for use by an authorized user at the first client ([0033]).

Buxton doesn't explicitly disclose a second server for evaluating business rules for viewing desired media items and wherein the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass.

However, Hurtado discloses a second server for evaluating business rules for viewing desired media items and wherein the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass ([0247] – [0257], "The End-User Device(s) 109 request from the content Hosting Facility 111, sending the corresponding License SC from the purchase Content 113." "Upon the receipt the Content 113 is de-encrypted by the End-User Device(s) 109 using the Symmetric Key").

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton as taught by Hurtado in order to make sure the delivery of the media content to a legitimate user.

31. As to claim 30, Buxton discloses wherein said media includes various file types ([0002]).

32. As to claim 34, Buxton discloses further comprising a catalog that may be displayed on a television device connected to a set-top box with broadband connectivity ([0012], lines 13-16, [0019]).

33. As to claim 35, Buxton discloses wherein the catalog is downloaded to the set-top box for display on the television device connected to the set-top box ([0019], [0012], lines 13-16).

34. As to claim 36, Buxton discloses wherein said peer-to-peer connectivity comprises a peer-to-peer network operating on the Internet ([0016], lines 8-12).

35. As to claim 37, Buxton discloses wherein each client connects to the peer-to-peer network via a broadband connection ([0016]).

36. As to claim 38, Buxton discloses wherein the client rendering device is capable of decrypting encrypted media items and displaying them on a television device ([0033], lines 16-21).

37. As to claim 39, Buxton discloses wherein the client rendering device includes a set-top box having a hard disk for storing the requested media item that is transferred to the first client ([0037], [0012], lines 13-16, [0013]).

38. As to claim 40, Buxton discloses wherein the requested media item is stored on the hard disk only in encrypted form ([0019], [0033], [0031]).

39. As to claim 41, Buxton discloses wherein the set top box stores pre-loaded media items so as to facilitate distribution of media items ([0031], see also [0038]).

40. As to claim 42, Buxton discloses wherein the first client includes a network that shares broadband connectivity with the client rendering device ([0043]).

41. As to claim 43, Buxton discloses further comprising: a media server capable of transferring an encrypted copy of the desired media item to clients, if a copy is not already available from other clients ([0024], lines 4-8).

42. As to claim 44, Buxton discloses wherein the first client is allowed to use the requested media item for a limited period of time ([0032], lines 1-3).

43. As to claim 45, Buxton discloses wherein in response to the server receiving a request from a second client for the particular media item, the server arranges for transfer of the encrypted copy of the desired media item from the first client to the second client ([0043], [0033], FIG. 1).

44. As to claim 46, Buxton discloses wherein the first server arranges for the transfer by scheduling the transfer of the encrypted copy to occur at a particular time (Buxton teaches this concept because the distributed database movie server selectively pushed certain movies in a time period whereas lesser viewed movies genres may remain stored on the back-up media server, e.g. see, [0031]).

45. As to claim 47, Buxton discloses wherein the second server includes a customer management subsystem for tracking and managing customers ([0032]).

46. As to claim 48, Buxton discloses wherein the first server is in communication with a repository of digital media, so that the server may direct transfer of the requested media item from the repository as needed ([0024]).

47. As to claim 86, Buxton discloses a distributed media distribution system comprising:

a plurality of clients having peer-to-peer connectivity to one another (FIG. 1, [0010], lines 6-10, [0012], lines 13-16);

a first server for processing a request from a first client for a particular media item ([0021], [0022], lines 1-11, [0043]), for determining a sub-plurality of clients that each or in the aggregate have a protected copy of the desired media item ([0022], lines 7-11, [0043], [0014], [0033], see also [0023], "during transfer of a movie, a local processing unit may go off-line. To prevent disruption of movie playback, if this particular local processing unit is providing data for a movie, another local user-subscriber's local processing unit must be able to provide the movie data content. The distribution monitor 212 within the distributed database server 104 serves to monitor the availability of local processing units and arbitrates which unit will stream the movie data.", *which describes that a sub-plurality of clients (i.e. multiple set top boxes) in the aggregate have copy of the protected media item*), for arranging transfer of the protected copy of the desired media item from the sub-plurality of client to the first client ([0033], lines 5-13, see also [0023]);

a third server for granting a media pass to the first client allowing access to the desired media item and a decryption key ("When a user-subscriber (i.e. client) has been determined as having authorization (i.e. media pass) for viewing a requested movie (i.e. desired media item) as determined by the transaction processing server (i.e. media pass server)" —e.g. see, [0033], lines 5-13), and for providing the decryption key

to the first client based on the return of the media pass by the first client (Buxton teaches this concept because the user can manually or via automatic process can utilize the key code and enable the requesting user's local processing unit to decrypt encrypted data, e.g. see, [0033], lines 13-21).

a client rendering device for decrypting the desired media item for use by an authorized user at the first client ([0033]).

Buxton doesn't explicitly disclose a second server for evaluating business rules for viewing desired media items and wherein the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass.

However, Hurtado discloses disclose a second server for evaluating business rules for viewing desired media items and wherein the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass ([0247] – [0257], "The End-User Device(s) 109 request from the content Hosting Facility 111, sending the corresponding License SC from the purchase Content 113." "Upon the receipt the Content 113 is de-encrypted by the End-User Device(s) 109 using the Symmetric Key").

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton as taught by Hurtado in order to make sure the delivery of the media content to a legitimate user.

48. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton as taught by Hurtado in order to make sure the delivery of the media content to a legitimate user.

49. As to claim 87, Buxton discloses wherein said media includes various file types ([0002]).

50. As to claim 89, Buxton discloses further comprising a Web server for displaying a catalog of media items available, and for receiving user input from the first client for selecting one of the media items available from the catalog ([0021], lines 1-7, [0022]).

51. As to claim 90, Buxton discloses further comprising a catalog that may be displayed on a television device connected to a set-top box with broadband connectivity ([0012], lines 13-16, [0019]).

52. As to claim 91, Buxton discloses wherein the catalog is downloaded to the set-top box for display on the television device connected to the set-top box ([0012], lines 13-16, [0019]).

53. As to claim 92, Buxton discloses wherein said peer-to-peer connectivity comprises a peer-to-peer network operating on the Internet ([0016], lines 8-12).

54. As to claim 93, Buxton discloses wherein each client connects to the peer-to-peer network via a broadband connection ([0016]).

55. As to claim 94, Buxton discloses wherein the client rendering device is capable of displaying media items on a television device ([0019], [0012], lines 13-16).

56. As to claim 95, Buxton discloses wherein the client rendering device includes a set-top box having a hard disk for storing the protected copy of the requested media item that is transferred to the first client ([0037], [0012], lines 13-16, [0013])

57. As to claim 96, Buxton discloses wherein the protected copy of the requested media item is stored on the hard disk in encrypted form ([0019], [0033], [0031], [0038]).

58. As to claim 97, Buxton discloses wherein the first client includes a network that shares broadband connectivity with the client rendering device ([0043], FIG. 1).

59. As to claim 98, Buxton discloses further comprising: a media server capable of transferring a protected copy of the desired media item to a client, if a protected copy is not available from other clients ([0024], lines 4-8).

60. As to claim 99, Buxton discloses wherein the first client is allowed to use the requested media item for a limited period of time ([0032], lines 1-3).

61. As to claim 100, Buxton discloses wherein in response to the first server receiving a request from a second client for the particular media item, the first server arranges for transfer of a protected copy of the desired media item from the first client to the second client ([0043], [0033], FIG. 1).

62. As to claim 101, Buxton discloses wherein the first server arranges for the transfer by scheduling the transfer of the protected copy to occur at a particular time ([0031], lines 15-19).

63. As to claim 102, Buxton discloses wherein the second server includes a customer management subsystem for tracking and managing customers ([0032]).

64. As to claim 103, Buxton discloses wherein the first server is in communication with a repository of digital media, so that the server may direct transfer of the requested media item from the repository as needed ([0024]).

65. As to claims 52-53 and 107-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buxton and further in view of Hurtado and Harris et al. (Pub. No.: US 2004/0267812 A1) (hereinafter "Harris").

66. As to claims 52 and 107, neither Buxton nor Hurtado explicitly disclose wherein the client rendering device includes an interface for indicating that a given desired media item has completed transfer and is available for use. However, Harris discloses wherein the client rendering device includes an interface for indicating that a given desired media item has completed transfer and is available for use ([0021]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Harris in order to provide a feature so that the user can monitor the progress of a video image or any media file. Furthermore, one would be motivated to provide such a feature so the users will not try to view content until it's delivered.

67. As to claims 53 and 108, neither Buxton nor Hurtado explicitly disclose wherein the interface indicates transfer progress for any items that are currently being transferred. However, Harris discloses wherein the interface indicates transfer progress for any items that are currently being transferred ([0021]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Harris in order to provide a feature so that the user can monitor the progress of a video image or any media file. Furthermore, one would be motivated to provide such a feature so the users will not try to view contents until it's delivered.

68. Claims 6, 23-24, 32-33, 49-51, 56-57, 59-85 and 104-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buxton and further in view of Hurtado and Kleinpeter III et al. (Patent No.: US 6,907,463 B1) (hereinafter "Kleinpeter").

69. As to claim 6, neither Buxton nor Hurtado explicitly disclose wherein the catalog comprises an online catalog accessible via a Web browser. However, Kleinpeter discloses wherein the catalog comprises an online catalog accessible via a Web browser (col. 4, lines 13-17, col. 3, lines 40-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Kleinpeter in order to provide movie data through the internet in relatively cheaper price to the end users. Furthermore, one would be motivated to do so in order to attract the global or extended community of users.

70. As to claim 23, the combination of Buxton, Hurtado and Kleinpeter discloses wherein the receiving step includes: receiving at a server a list establishing the first client's priorities for receiving desired media items (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60).

71. As to claim 24, the combination of Buxton, Hurtado and Kleinpeter disclose wherein higher priority items on the list are transferred before any lower priority items.

However, Kleinpeter discloses wherein higher priority items on the list are transferred before any lower priority items (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60).

72. As to claim 32, Buxton discloses for receiving user input from the first client for selecting one of the media items available from the catalog ([0021], lines 1-7, [0022]). However, neither Buxton nor Hurtado explicitly disclose a Web server for displaying a catalog of media items available. However, Kleinpeter discloses a Web server for displaying a catalog of media items available (col. 4, lines 13-17, col. 3, lines 40-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Kleinpeter in order to provide movie data through the internet in relatively cheaper price to the end users. Furthermore, one would be motivated to do so in order to attract the global or extended community of users.

73. As to claim 33, the combinations of Buxton, Hurtado and Kleinpeter disclose wherein the catalog comprises an online catalog accessible via a Web browser (Kleinpeter: col. 4, lines 13-17, col. 3, lines 40-41).

74. As to claim 49, the combinations of Buxton, Hurtado and Kleinpeter disclose wherein the server receives a prioritized list establishing the first client's priority for receiving desired media items (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify the teaching of Buxton as taught by Kleinpeter in order to utilize the network bandwidth in a efficient way without wasting end user's viewable time period.

75. As to claim 50, although Buxton discloses wherein the server arranges for transfer of multiple media items to the first client from multiple other clients ([0043]), neither Buxton nor Hurtado explicitly disclose transfer is pursuant to the prioritized list. However, Kleinpeter discloses transfer is pursuant to the prioritized list (col. 1, lines 58-60, col. 6, lines 57-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Kleinpeter in order to utilize the network bandwidth in a efficient way without wasting end user's viewable time period.

76. As to claim 51, the combination of Buxton, Hurtado and Kleinpeter disclose wherein higher priority items on the prioritized list are transferred before any lower priority items (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60).

77. As to claim 56, Buxton discloses a method for secure delivery of media content via the Internet, the method comprising:

providing at a first server a catalog of media items available in encrypted format from a plurality of devices having broadband connectivity to the Internet (FIG. 1, [0010], lines 6-10, [0012], lines 13-16, [0016]);

scheduling delivery to the first device of a particular media item from a sub-plurality of devices of the plurality of devices that each or in the aggregate have an encrypted copy of the particular media item ("during transfer of a movie, a local processing unit may go off-line. To prevent disruption of movie playback, if this particular local processing unit is providing data for a movie, another local user-subscriber's local processing unit must be able to provide the movie data content. The distribution monitor 212 within the distributed database server 104 serves to monitor the availability of local processing units and arbitrates which unit will stream the movie data.", e.g. see, [0023], See also, ([0033], lines 5-13, see also [0022], lines 7-11, [0023], [0043]);

at the first device, returning the media pass to the third server ("When a user-subscriber (i.e. client) has been determined as having authorization (i.e. media pass) for viewing a requested movie (i.e. desired media item) as determined by the transaction processing server (i.e. media pass server)" —e.g. see, [0033], lines 5-13);

at the third server, once receiving the media pass from the first device, providing a decryption key to the first client for decrypting and viewing the desired media item (Buxton teaches this concept because the user can manually or via automatic process can utilize the key code and enable the requesting user's local processing unit to decrypt encrypted data, e.g. see, [0033], lines 13-21), [0032]).

providing at the third server decryption key to the first device once the media pass is received, enabling the encrypted copy of the particular media item to be played at the first device (Buxton teaches this concept because the user can manually or via

automatic process can utilize the key code and enable the requesting user's local processing unit to decrypt encrypted data, e.g. see, [0033], lines 13-21).

Buxton doesn't explicitly disclose at a second server, evaluating whether the first device satisfied business rules for viewing the desired media item; at the first server, signaling to the third server that the business rules have been satisfied, wherein the third server contains media passes and decryption keys; at the third sever, providing a media pass to the first device;

However, Hurtado discloses at a second server, evaluating whether the first device satisfied business rules for viewing the desired media item; at the first server, signaling to the third server that the business rules have been satisfied, wherein the third server contains media passes and decryption keys; at the third sever, providing a media pass to the first device ([0247] – [0257], "The End-User Device(s) 109 request from the content Hosting Facility 111, sending the corresponding License SC from the purchase Content 113." "Upon the receipt the Content 113 is de-encrypted by the End-User Device(s) 109 using the Symmetric Key").

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton as taught by Hurtado in order to make sure the delivery of the media content to a legitimate user.

Neither Buxton nor Hurtado explicitly disclose receiving a priority list from a first device representing a prioritized list of media items requested by the first device from the catalog; scheduling delivery to the first device of a particular media item on the priority list from at least one second device having an encrypted copy of the particular

media item; However, Kleinpeter discloses receiving a priority list from a first device representing a prioritized list of media items requested by the first device from the catalog (col. 4, lines 13-17, col. 3, lines 40-41); scheduling delivery to the first device of a particular media item on the priority list from at least one second device having an encrypted copy of the particular media item (col. 4, lines 13-17, col. 3, lines 40-41);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Kleinpeter in order to provide movie data through the internet in relatively cheaper price to the end users. Furthermore, one would be motivated to do so in order to attract the global or extended community of users.

78. As to claim 57, Buxton discloses wherein said media items include various file types ([0002]).

79. As to claim 59, Buxton discloses wherein said plurality of devices having broadband connectivity includes a plurality of client devices having peer-to-peer connectivity to one another ([0016], [0043], FIG. 1).

80. As to claim 60, Buxton discloses wherein said plurality of devices having broadband connectivity includes at least one server having encrypted copies of media items for supply to client devices ([0021], [0022], lines 1-11, [0043], see also [0024]).

81. As to claim 61, Buxton discloses further comprising: pre-loading encrypted copies of media items at said plurality of devices having broadband connectivity ([0031]).

82. As to claim 62, Buxton discloses wherein said plurality of devices having broadband connectivity includes a client set-top box having broadband connectivity through a network ([0019], [0012], lines 13-16, [0016]).

83. As to claim 63, Buxton discloses wherein said catalog is displayed on a television connected to the client set-top box ([0019], [0012], lines 13-16, [0016]).

84. As to claim 64, Buxton discloses wherein said catalog is downloaded from the server and stored locally on a database at the client set-top box ([0034], [0041], see also ([0021], lines 1-7, [0022]).

85. As to claim 65, the combination of Buxton, Hurtado and Kleinpeter disclose wherein said catalog is a catalog available on the Internet and accessible via a Web browser (Kleinpeter: col. 4, lines 13-17, col. 3, lines 40-41).

86. As to claim 66, Buxton discloses wherein the first device comprises a client set-top box having a hard disk for storing encrypted media items ([0038]).

87. As to claim 67, Buxton discloses wherein said set-top box includes a user interface for issuing a request to play an encrypted media item available on the set-top box's hard disk ([0027]).

88. As to claim 68, the combination of Buxton, Hurtado and Kleinpeter disclose wherein said step of scheduling delivery includes comparing the priority list received from the first device with media items available on the first device, so as to determine the particular media item to be delivered to the first device. However, Kleinpeter discloses wherein said step of scheduling delivery includes comparing the priority list received from the first device with media items available on the first device, so as to determine the particular media item to be delivered to the first device (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60).

89. As to claim 69, Buxton discloses further comprising: maintaining a database listing copies of encrypted media items available on each of said plurality of devices ([0043]).

90. As to claim 70, Buxton discloses wherein said step of scheduling delivery includes determining at least one second device having a copy of said particular media item based upon consulting the database ([0043], [0024]).

91. As to claim 71, Buxton discloses wherein said step of scheduling delivery includes determining that the first device is authorized to receive delivery of the particular media item ([0032]-[0033]).

92. As to claim 72, Buxton discloses wherein said step of scheduling delivery includes scheduling delivery of portions of the particular media item from a plurality of second devices ([0031], lines 15-19, FIG. 3).

93. As to claim 73, Buxton discloses wherein said step of scheduling delivery includes determining a particular portion of the particular media item to be sent by each of said plurality of second devices ([0031], lines 15-19, [0043], FIG. 3).

94. As to claim 74, Buxton discloses wherein said step of scheduling delivery includes determining whether to deliver the particular media item from a server repository or from a peer client having a copy of the particular media item ([0024], [0031]).

95. As to claim 75, Buxton discloses wherein said step of scheduling delivery includes scheduling delivery from a client set-top box having a copy of the particular media item, so as to conserve server resources ([0043], [0022]).

96. As to claim 76, Buxton discloses wherein said step of scheduling delivery includes scheduling a time for delivery of the particular media item to the first device (Buxton teaches this concept because the distributed database movie server selectively pushed certain movies in a time period whereas lesser viewed movies genres may remain stored on the back-up media server, e.g. see, [0031]).

97. As to claim 77, Buxton discloses further comprising: receiving a priority list from a third device requesting said particular media item; and transferring the encrypted copy of the particular media item from the first device to the third device ([0043], [0033], FIG. 1).

98. As to claim 78, Buxton discloses transferring a portion of the encrypted copy of the particular media item from the first device and a portion of the encrypted copy of the particular media item from said at least one second device to the third device ([0043], FIG. 3). Neither Buxton nor Hurtado explicitly disclose receiving a priority list from a third device requesting said particular media item. However, Kleinpeter discloses receiving a priority list from a third device requesting said particular media item (col. 1, lines 58-60, col. 6, lines 57-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Kleinpeter in order to utilize the network bandwidth in a efficient way without wasting end user's viewable time period.

99. As to claim 79, Buxton discloses wherein said step of scheduling delivery includes scheduling delivery based upon optimizing delivery of media items to a plurality of devices requesting media items ([0031]).

100. As to claim 80, Buxton discloses wherein said step of transferring an encrypted copy of the particular media item includes transferring portions of the particular media item from a plurality of second devices (FIG. 3, [0043], [0038]).

101. As to claim 81, Buxton discloses wherein said step of providing a decryption key includes providing a decryption key valid for a limited period of time ([0032]-[0033]).

102. As to claim 82, Buxton discloses wherein said step of providing a decryption key includes: specifying a viewing period comprising a limited period of time during which the first device may decrypt and playback a media item; and providing a decryption key to the first device only during the specified viewing period ([0032]-[0033]).

103. As to claim 83, Buxton discloses wherein said first device comprises a client set-top box capable of decrypting encrypted media items and rendering them on a connected television device ([0019], [0012], lines 13-16, [0017]).

104. As to claim 84, Buxton discloses a computer-readable medium having processor-executable instructions for performing the method of claim 56 ([0019], [0012], lines 13-16, [0017]).

105. As to claim 85, Buxton discloses a downloadable set of processor-executable instructions for performing the method of claim 56 ([0019], [0012], lines 13-16, [0017]).

106. As to claim 104, the combination of Buxton, Hurtado and Kleinpeter disclose wherein the server receives a prioritized list establishing the first client's priority for receiving desired media items (Kleinpeter : col. 1, lines 58-60, col. 6, lines 57-60).

107. As to claim 105, the combination of Buxton, Hurtado and Kleinpeter disclose transfer is pursuant to the prioritized list (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60).

108. As to claim 106, the combination of Buxton, Hurtado and Kleinpeter disclose wherein higher priority items on the prioritized list are transferred before any lower priority items (Kleinpeter: col. 1, lines 58-60, col. 6, lines 57-60).

109. Claims 31 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buxton and further in view of Hurtado and Schleicher et al. (Pub. No.: US 2002/0138576 A1) (hereinafter "Schleicher").

110. As to claim 31, although Buxton discloses a video-on demand peer- to-peer sharing of movies ([0010]), neither Buxton nor Hurtado explicitly discloses wherein said media includes selected ones of audio and video files. However, Schleicher discloses wherein said media includes selected ones of audio and video files ([0022]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Schleicher in order to reduce transfer costs and offer security enforcing copyrights on a public network.

111. As to claim 88, although Buxton discloses a video-on demand peer- to-peer sharing of movies ([0010]), neither Buxton nor Hurtado explicitly discloses wherein said media includes selected ones of audio and video files. However, Schleicher discloses wherein said media includes selected ones of audio and video files ([0022]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton and Hurtado as taught by Schleicher in order to reduce transfer costs and offer security enforcing copyrights on a public network.

112. As to claim 58, although Buxton discloses a video-on demand peer- to-peer sharing of movies ([0010]), neither Buxton nor Hurtado and Kleinpeter explicitly discloses wherein said media includes selected ones of audio and video files. However,

Schleicher discloses wherein said media includes selected ones of audio and video files ([0022]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of Buxton, Hurtado and Kleinpeter as taught by Schleicher in order to reduce transfer costs and offer security enforcing copyrights on a public network.

113. **Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Response to Arguments

114. Applicant has amended Claims 1, 9-10, 18, 29, 45-50, 56, 72-73, 77-78, 80, 86 and 100-105, see rejection above. Applicant's arguments filed June 17, 2009 have been fully considered but they are not persuasive.

115. Applicant argues that: "[n]either Buxton nor Hurtado discloses delivery of media items to clients as an aggregate of portions of media items supplied by more than one source in a network. Specifically, Buxton and Hurtado, whether considered alone or in combination, fail to disclose 'determining a sub-plurality of clients that each or in the aggregate have an encrypted copy of the desired media item, for arranging transfer of the encrypted copy of the desired media item from the sub-plurality of clients to the first client' as claimed".

Examiner maintains that Buxton teaches delivery of media items to clients as an aggregate of portions of media items supplied by more than one source in a network. Specifically, Buxton and Hurtado, whether considered alone or in combination, fail to disclose 'determining a sub-plurality of clients that each or in the aggregate have an encrypted copy of the desired media item, for arranging transfer of the encrypted copy of the desired media item from the sub-plurality of clients to the first client ("during transfer of a movie, a local processing unit may go off-line. To prevent disruption of movie playback, if this particular local processing unit is providing data for a movie, another local user-subscriber's local processing unit must be able to provide the movie data content. The distribution monitor 212 within the distributed database server 104 serves to monitor the availability of local processing units and arbitrates which unit will stream the movie data.", e.g. see, [0023], *which describes that a sub-plurality of clients (i.e. multiple set top boxes) in the aggregate have copy of the encrypted media item and supplied the media item by more than one device*). It also should be noted that steaming of media item can be done from multiple devices.

Conclusion

116. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUMAN DEBNATH whose telephone number is (571)270-1256. The examiner can normally be reached on 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on 571 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. D./
Examiner, Art Unit 2435

/Kimyen Vu/
Supervisory Patent Examiner, Art Unit 2435